

AMENDED IN SENATE JUNE 23, 2008

AMENDED IN ASSEMBLY APRIL 14, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2111

Introduced by Assembly Member Smyth

February 20, 2008

An act to amend Sections 2636, 2660, and 2688 of, to add Sections 2660.3 and 2660.7 to, and to repeal Sections 2605, 2636.1, 2637, 2655.4, and 2655.5 of, the Business and Professions Code, relating to physical therapists.

LEGISLATIVE COUNSEL'S DIGEST

AB 2111, as amended, Smyth. Physical therapy: regulation.

Existing law, the Physical Therapy Practice Act, creates the Physical Therapy Board of California and makes it responsible for the licensure and regulation of physical therapists and physical therapist assistants. Under the act, an applicant for licensure is required to take and obtain a passing score on an examination testing specified subjects, and impersonating or acting as a proxy for an applicant in an examination is a basis for disciplinary action by the board. The act also makes a violation of its provisions a crime. Under the act, the board is authorized to charge licensure fees, which are deposited into the Physical Therapy Fund.

This bill would recast the examination provisions for licensure as a physical therapist and as a physical therapist assistant. The bill would delete impersonating or acting as a proxy for an examinee as a cause for disciplinary action and would instead authorize the board to disqualify an applicant or revoke the license of a person who engaged

in conduct, as specified, that interferes with the examination process. The bill would expand the types of disciplinary action the board may take to include the issuance of a public letter of reprimand in certain circumstances and would revise the amount of licensure fees charged by the board.

By specifying additional prohibited conduct under the Physical Therapy Practice Act, the violation of which would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 2605 of the Business and Professions
- 2 Code is repealed.
- 3 SEC. 2. Section 2636 of the Business and Professions Code is
- 4 amended to read:
- 5 2636. (a) Except as otherwise provided in this chapter, no
- 6 person shall receive a license under this chapter without first
- 7 successfully passing the following examinations:
- 8 (1) An examination under the direction of the board to
- 9 demonstrate the applicant's knowledge of the laws and regulations
- 10 related to the practice of physical therapy in California. The
- 11 examination shall reasonably test the applicant's knowledge of
- 12 these laws and regulations.
- 13 (2) The national physical therapy examination for the applicant's
- 14 licensure category. The examination for licensure as a physical
- 15 therapist shall test entry-level competence to practice physical
- 16 therapy. The examination for licensure as a physical therapist
- 17 assistant shall test entry-level competence to practice as a physical
- 18 therapist assistant in the technical application of physical therapy
- 19 services.
- 20 (b) An applicant may take the examinations for licensure as a
- 21 physical therapist or for licensure as a physical therapist assistant

1 after the applicant has met the educational requirements for that
2 particular category of licensure.

3 (c) The examinations required by the board for a license under
4 this chapter may be conducted by the board or by a public or
5 private organization specified by the board. The examinations may
6 be conducted under a uniform examination system and, for that
7 purpose, the board may make arrangements with organizations
8 furnishing examination materials as may, in its discretion, be
9 desirable.

10 (d) The board shall establish a passing score for the examinations
11 for licensure as a physical therapist and for the examinations for
12 licensure as a physical therapist assistant. The board shall issue a
13 license to an applicant who is otherwise qualified for licensure
14 under this chapter and who receives a passing score as established
15 by the board on the examinations.

16 SEC. 3. Section 2636.1 of the Business and Professions Code
17 is repealed.

18 SEC. 4. Section 2637 of the Business and Professions Code is
19 repealed.

20 SEC. 5. Section 2655.4 of the Business and Professions Code
21 is repealed.

22 SEC. 6. Section 2655.5 of the Business and Professions Code
23 is repealed.

24 SEC. 7. Section 2660 of the Business and Professions Code is
25 amended to read:

26 2660. The board may, after the conduct of appropriate
27 proceedings under the Administrative Procedure Act, suspend for
28 not more than 12 months, or revoke, or impose probationary
29 conditions upon any license, certificate, or approval issued under
30 this chapter for unprofessional conduct that includes, but is not
31 limited to, one or any combination of the following causes:

32 (a) Advertising in violation of Section 17500.

33 (b) Fraud in the procurement of any license under this chapter.

34 (c) Procuring or aiding or offering to procure or aid in criminal
35 abortion.

36 (d) Conviction of a crime that substantially relates to the
37 qualifications, functions, or duties of a physical therapist or
38 physical-therapy therapist assistant. The record of conviction or a
39 certified copy thereof shall be conclusive evidence of that
40 conviction.

1 (e) Habitual intemperance.

2 (f) Addiction to the excessive use of any habit-forming drug.

3 (g) Gross negligence in his or her practice as a physical therapist
4 or physical-therapy therapist assistant.

5 (h) Conviction of a violation of any of the provisions of this
6 chapter or of the Medical Practice Act, or violating, or attempting
7 to violate, directly or indirectly, or assisting in or abetting the
8 violating of, or conspiring to violate any provision or term of this
9 chapter or of the Medical Practice Act.

10 (i) The aiding or abetting of any person to violate this chapter
11 or any regulations duly adopted under this chapter.

12 (j) The aiding or abetting of any person to engage in the unlawful
13 practice of physical therapy.

14 (k) The commission of any fraudulent, dishonest, or corrupt act
15 that is substantially related to the qualifications, functions, or duties
16 of a physical therapist or physical-therapy therapist assistant.

17 (l) Except for good cause, the knowing failure to protect patients
18 by failing to follow infection control guidelines of the board,
19 thereby risking transmission of blood-borne infectious diseases
20 from licensee to patient, from patient to patient, and from patient
21 to licensee. In administering this subdivision, the board shall
22 consider referencing the standards, regulations, and guidelines of
23 the State Department of Public Health developed pursuant to
24 Section 1250.11 of the Health and Safety Code and the standards,
25 regulations, and guidelines pursuant to the California Occupational
26 Safety and Health Act of 1973 (Part 1 (commencing with Section
27 6300) of Division 5 of the Labor Code) for preventing the
28 transmission of HIV, hepatitis B, and other blood-borne pathogens
29 in health care settings. As necessary, the board shall consult with
30 the Medical Board of California, the California Board of Podiatric
31 Medicine, the Dental Board of California, the Board of Registered
32 Nursing, and the Board of Vocational Nursing and Psychiatric
33 Technicians of the State of California, to encourage appropriate
34 consistency in the implementation of this subdivision.

35 The board shall seek to ensure that licensees are informed of the
36 responsibility of licensees and others to follow infection control
37 guidelines, and of the most recent scientifically recognized
38 safeguards for minimizing the risk of transmission of blood-borne
39 infectious diseases.

40 (m) The commission of verbal abuse or sexual harassment.

SEC. 8. Section 2660.3 is added to the Business and Professions Code, to read:

2660.3. In lieu of filing or prosecuting a formal accusation against a licensee, the board may, upon stipulation or agreement by the licensee, issue a public letter of reprimand after it has conducted an investigation or inspection as provided for in this chapter. The board shall notify the licensee of its intention to issue the letter 30 days before the intended issuance date of the letter. The licensee shall indicate in writing at least 15 days prior to the letter's intended issuance date whether he or she agrees to the issuance of the letter. The board, at its option, may extend the time within which the licensee may respond to its notification. If the licensee does not agree to the issuance of the letter, the board shall not issue the letter and may proceed to file the accusation. The board may use a public letter of reprimand only for minor violations, as defined by the board, committed by the licensee. *A public letter of reprimand issued pursuant to this section shall be disclosed by the board to an inquiring member of the public and shall be posted on the board's Internet Web site.*

SEC. 9. Section 2660.7 is added to the Business and Professions Code, to read:

2660.7. In addition to the penalties prescribed by Section 123, if the board determines that an applicant for licensure or a licensee has engaged, or has attempted to engage, in conduct that subverts or undermines the integrity of the examination process as described in Section 123, the board may disqualify the applicant from taking the examination or may deny his or her application for licensure or may revoke the license of the licensee.

SEC. 10. Section 2688 of the Business and Professions Code is amended to read:

2688. The amount of fees assessed in connection with licenses issued under this chapter is as follows:

(a) (1) The fee for an application for licensure as a physical therapist submitted to the board prior to March 1, 2009, shall be seventy-five dollars (\$75). The fee for an application submitted under Section 2653 to the board prior to March 1, 2009, shall be one hundred twenty-five dollars (\$125).

(2) The fee for an application for licensure as a physical therapist submitted to the board on or after March 1, 2009, shall be one hundred twenty-five dollars (\$125). The fee for an application

submitted under Section 2653 to the board on or after March 1, 2009, shall be two hundred dollars (\$200).

(3) Notwithstanding paragraphs (1) and (2), the board may decrease or increase the amount of an application fee under this subdivision to an amount that does not exceed the cost of administering the application process, but in no event shall the application fee amount exceed three hundred dollars (\$300).

(b) The examination and reexamination fees for the physical therapist examination, physical therapist assistant examination, and the examination to demonstrate knowledge of the California rules and regulations related to the practice of physical therapy shall be the actual cost to the board of the development and writing of, or purchase of the examination, and grading of each written examination, plus the actual cost of administering each examination. The board, at its discretion, may require the licensure applicant to pay the fee for the examinations required by Section 2636 directly to the organization conducting the examination.

(c) (1) The fee for a physical therapist license issued prior to March 1, 2009, shall be seventy-five dollars (\$75).

(2) The fee for a physical therapist license issued on or after March 1, 2009, shall be one hundred dollars (\$100).

(3) Notwithstanding paragraphs (1) and (2), the board may decrease or increase the amount of the fee under this subdivision to an amount that does not exceed the cost of administering the process to issue the license, but in no event shall the fee to issue the license exceed one hundred fifty dollars (\$150).

(d) (1) The fee to renew a physical therapist license that expires prior to April 1, 2009, shall be one hundred fifty dollars (\$150).

(2) The fee to renew a physical therapist license that expires on or after April 1, 2009, shall be two hundred dollars (\$200).

(3) Notwithstanding paragraphs (1) and (2), the board may decrease or increase the amount of the renewal fee under this subdivision to an amount that does not exceed the cost of the renewal process, but in no event shall the renewal fee amount exceed three hundred dollars (\$300).

(e) (1) The fee for application and for issuance of a physical ~~therapy~~ *therapist* assistant license shall be seventy-five dollars (\$75) for an application submitted to the board prior to March 1, 2009.

(2) The fee for application and for issuance of a physical-therapy therapist assistant license shall be one hundred twenty-five dollars (\$125) for an application submitted to the board on or after March 1, 2009. The fee for an application submitted under Section 2653 to the board on or after March 1, 2009, shall be two hundred dollars (\$200).

(3) Notwithstanding paragraphs (1) and (2), the board may decrease or increase the amount of the fee under this subdivision to an amount that does not exceed the cost of administering the application process, but in no event shall the application fee amount exceed three hundred dollars (\$300).

(f) (1) The fee to renew a physical-therapy therapist assistant license that expires prior to April 1, 2009, shall be one hundred fifty dollars (\$150).

(2) The fee to renew a physical-therapy therapist assistant license that expires on or after April 1, 2009, shall be two hundred dollars (\$200).

(3) Notwithstanding paragraphs (1) and (2), the board may decrease or increase the amount of the renewal fee under this subdivision to an amount that does not exceed the cost of the renewal process, but in no event shall the renewal fee amount exceed three hundred dollars (\$300).

(g) Notwithstanding Section 163.5, the delinquency fee shall be 50 percent of the renewal fee in effect.

(h) (1) The duplicate wall certificate fee shall be fifty dollars (\$50). The duplicate renewal receipt fee amount shall be fifty dollars (\$50).

(2) Notwithstanding paragraph (1), the board may decrease or increase the amount of the fee under this subdivision to an amount that does not exceed the cost of issuing duplicates, but in no event shall that fee exceed one hundred dollars (\$100).

(i) (1) The endorsement or letter of good standing fee shall be sixty dollars (\$60).

(2) Notwithstanding paragraph (1), the board may decrease or increase the amount of the fee under this subdivision to an amount that does not exceed the cost of issuing an endorsement or letter, but in no event shall the fee amount exceed one hundred dollars (\$100).

SEC. 11. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because

1 the only costs that may be incurred by a local agency or school
2 district will be incurred because this act creates a new crime or
3 infraction, eliminates a crime or infraction, or changes the penalty
4 for a crime or infraction, within the meaning of Section 17556 of
5 the Government Code, or changes the definition of a crime within
6 the meaning of Section 6 of Article XIII B of the California
7 Constitution.

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